

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA

FILED
AUG 30 2005

JOHN F. CORCORAN, CLERK
BY: *[Signature]*
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DEBRA T. BUNDY,)	CASE NO. 4:04CV00079
)	
Plaintiff)	
)	
v.)	<u>REPORT AND RECOMMENDATION</u>
)	
JO ANNE B. BARNHART, Commissioner)	
of Social Security,)	
)	
Defendant)	By: B. WAUGH CRIGLER U.S. MAGISTRATE JUDGE

Presently before the court is a motion to dismiss filed by defendant on July 28, 2005. This case has been referred to the undersigned in accordance with 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B). On August 8, 2005, the undersigned issued a Report recommending that the District Judge enter an order remanding the case to the Commissioner for further proceedings thus alleviating the necessity, at this level, for such a brief.¹

For these reasons, it is

RECOMMENDED

that defendant's July 28, 2005 motion to dismiss be DENIED.


The Clerk is directed to immediately transmit the record in this case to the Hon. Jackson L. Kiser, United States District Judge. Both sides are reminded that pursuant to Rule 72(b) they are entitled to note objections, if any they may have, to this Report and Recommendation within (10) days hereof. Any adjudication of fact or conclusion of law rendered herein by the undersigned not specifically objected to within the period prescribed by law may become

¹Of course, if there are objections, they will need to be specifically articulated.

conclusive upon the parties. Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(1)(C) as to factual recitations or findings as well as to the conclusions reached by the undersigned may be construed by any reviewing court as a waiver of such objection.

The Clerk is directed to send a certified copy of this Report and Recommendation to all counsel of record.

ENTERED:


U. S. Magistrate Judge

8/30/05
Date